

ARTICLE IX

ADMINISTRATION

30-9-1 ADMINISTRATIVE PROCEDURES

30-9-1.1 General

The City Council shall provide for the manner in which the provisions of this Ordinance shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. A Board within the context of this Ordinance shall mean any board, commission, or agency empowered therein.

30-9-1.2 Notice

(A) Rezoning, Special Use Permit, Conditional Zoning, Special Exception, or Variance: Whenever there is a request for a zoning map amendment, Special Use Permit, Conditional Zoning District, special exception, or variance involving a parcel of land, the owner of that parcel of land and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing shall be mailed a notice of the request.

- 1) Notice shall be by first class mail to the last addresses listed on the county tax abstracts for such owners.
- 2) The person or persons mailing such notices for zoning map amendments shall certify to the City Council that proper notice has been given. Such certification shall be deemed conclusive in the absence of fraud.
- 3) Notice in the case of comprehensive rezoning of all property within the City shall be mailed where required by NCGS 160A-384.
- 4) Notice of such proposed action shall also be published in a newspaper of general circulation in accordance with North Carolina General Statutes.
- 5) Each site shall be posted in a conspicuous location(s) with the time, date, and notice of the Board public hearing. Posting shall not be required in the case of a special exception, variance or comprehensive rezoning.

(B) Text Amendment and Appeal: Whenever there is a request for an action involving a text amendment to this Ordinance or an appeal of an interpretation of this Ordinance, a notice of such proposed action shall be published in a newspaper of general circulation in accordance with NCGS 160A-364.

(C) Board Meetings: Whenever there is a request for an action requiring a Board approval under this Ordinance, public notice shall be given in accordance with NCGS Chapter 143, Article 33C (Meetings of Public Bodies).

30-9-1.3 Organization

The City Council shall require that each of the Boards provided for by this Ordinance adopt rules and maintain records.

(A) Rules of Conduct: Each Board shall adopt rules necessary to conduct its affairs and to establish Board organization, committees, procedures, meeting notice, and meeting conduct.

(B) Conformance of Rules: Such rules adopted by the Board shall be in accordance with State law and the provisions of this Ordinance.

(C) Election and Terms of Officers: Unless otherwise provided by Ordinance, a Chairman and Vice Chairman of the Board shall be elected by members of the Board. The Secretary does not have to be a member of the Board.

(D) Record of Meetings: The Board shall keep minutes of its proceedings, showing the vote of each member upon every action or, if absent or failing to vote, indicate such fact. The Board shall also keep records of its examinations and other official actions. All such records and minutes shall be public record.

30-9-1.4 Alternate Members

(A) Inclusion of Alternates: The City Council may appoint alternate members to serve in the absence of regular members.

(B) Powers and Duties: Each alternate member, attending a meeting of the Board and serving in the absence of a regular member, has and may exercise all the powers and duties of a regular member.

30-9-1.5 Terms

(A) Length of Terms: Regular members and alternate members of the Board shall serve a term of three (3) years, provided that upon initial appointment the terms of office may be staggered. The terms of all Board members shall not expire at the same time.

(B) Maximum Consecutive Terms: Regular members shall not serve more than two (2) consecutive terms.

(C) Filling of Vacancies: Vacancies created by resignation or other causes shall be filled by a new member or an alternate member appointed to serve for the remainder of the unexpired term.

30-9-1.6 Compensation

Compensation for Board members may be provided for by the City Council.

30-9-2 PLANNING BOARD

30-9-2.1 Authority

A planning agency known as the Planning Board is hereby established pursuant to NCGS 160A-361.

30-9-2.2 Membership

The Planning Board shall consist of nine (9) members who shall be appointed by the City Council for terms to expire as of August 15.

30-9-2.3 Quorum

Five (5) members of the Planning Board shall constitute a quorum.

30-9-2.4 Powers and Duties

The Planning Board shall have the following powers and duties:

(A) to make a careful study of the resources, possibilities, and needs of the City, particularly with respect to the conditions which may be injurious to the public welfare or otherwise injurious, and to make plans for the development of the City;

(B) to advise the City Council on the laying out of streets and parks, the uses of land, densities of population, the location of public facilities, building lines, future street lines, and other measures related to the objectives of a comprehensive planning program;

(C) to perform such duties with regard to property lying outside of the City as are authorized by law, subject to the approval of the City Council;

(D) to study, prepare, and submit amendments to the text of this Ordinance for consideration by the Zoning Commission or City Council;

(E) to provide, control, augment, and maintain an orderly and coordinated system of community development by means of land use patterns, open space, and subdivision standards, criteria for amendments to the Official Zoning Map, thoroughfare systems, and other elements of a comprehensive plan;

(F) to make findings and recommendations concerning areas in the City which may qualify as redevelopment areas pursuant to NCGS 160A-500 et seq;

(G) to hear and decide matters on appeal from the Technical Review Committee and the Enforcement Officer for soil erosion, such as subdivisions, site plans, and soil erosion and sedimentation control plans;

(H) to hear and make recommendations to the City Council pertaining to street name changes, street closings, right-of-way vacations, right-of-way encroachments, historic district designations, and watershed matters;

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(I) to hear and decide matters as assigned by the City Council pertaining to Site Specific Development Plans, easement releases, and plans not acted upon by the Technical Review Committee;

(J) to release or quitclaim any rights the City may have in any water, sanitary sewer, storm sewer easements, or any other right-of-way except street right-of-way;

(K) to provide recommendations to the City Council with regard to any of the above matters which may be appealed, as well as those matters which remain with the City Council as original jurisdiction such as text amendments;

(L) to appoint, at its discretion, subcommittees to concern themselves with specific planning and community development matters;

(M) to perform certain duties previously assigned to the former Housing Development Clearinghouse Commission in Section 5.75 of the City Charter. Such duties shall be:

1) to study, adopt, and maintain goals, objectives, and standards for identified assisted housing programs and to serve as a clearinghouse for review and comment on such housing programs; and

2) to make recommendations to appropriate public and private agencies concerning assisted housing;

(N) to develop a comprehensive plan for the territory under its jurisdiction, subject to specific direction from the City Council;

(O) to make such other studies and plans and to review such other related matters as directed by the City Council; and

(P) to exercise other powers and authority provided to it by the City Council, this Ordinance, or State law.

30-9-3 ZONING COMMISSION

30-9-3.1 Authority

A planning agency known as the Zoning Commission is hereby established pursuant to NCGS 160A-361.

30-9-3.2 Membership

The Zoning Commission shall consist of nine (9) members who shall be appointed by the City Council for terms to expire as of August 15. In order to fill two new vacancies created due to expansion of membership of the Commission and to provide for continuity of overlapping terms, beginning 1 November 1998 two members shall be appointed so that one appointee shall serve a term of two years and one appointee shall serve a term of three years.

30-9-3.3 Quorum

Five (5) members of the Zoning Commission shall constitute a quorum.

30-9-3.4 Powers and Duties

The Zoning Commission shall have the following powers and duties:

(A) to initiate, hear, and decide matters in accordance with the terms of this Ordinance, such as zoning map amendments, Conditional Zoning applications, and Special Use Permits;

(B) to make recommendations to the City Council in regard to the initial zoning of property which might come under the zoning powers of the City;

(C) to consider proposed amendments to the text of this Ordinance when referred to it by either the Planning Board or the City Council and to make recommendations to the City Council on any such proposed amendments;

(D) to make such other studies and to review such other related matters as directed by the City Council; and

(E) to exercise other powers and authority provided to it by the City Council, this Ordinance, and State law.

30-9-4 TECHNICAL REVIEW COMMITTEE

30-9-4.1 Authority

A planning agency known as the Technical Review Committee (TRC) is hereby established pursuant to NCGS 160A-361.

30-9-4.2 Membership

The TRC shall be composed of seven (7) members with one (1) representative from each of the following departments or divisions: Planning Department - Administration, Planning Services Division, Parks and Recreation Department, Public Works Department - Administration, Transportation Department, Water and Sewer Division, and Engineering Division. These members shall be appointed by and serve at the pleasure of their respective department heads.

30-9-4.3 Officers

The Planning Director or his designated representative shall serve as Chair of the Technical Review Committee.

30-9-4.4 Powers and Duties

The Technical Review Committee shall have the following powers and duties:

(A) to provide for a continuing, coordinated, and comprehensive review of the technical aspects of this Ordinance and for the approval of certain technical aspects of development proposals;

(B) to review technical aspects of development occurring within the City as specified by this Ordinance;

(C) to review and approve new or revised plans including: subdivisions; clustered or attached developments; planned unit developments; office, commercial, and industrial developments; and any other proposals for development specified by this Ordinance;

(D) to approve modifications as authorized by Section 30-9-1 (Modifications);

(E) to recommend to the Planning Board the closing of streets, alleys, easements, and other rights-of-way;

(F) to perform any other related duties that the City Council may direct; and

(G) to exercise other powers and authority provided to it by the City Council, this Ordinance, or State law.

30-9-5 HISTORIC PRESERVATION COMMISSION

30-9-5.1 Authority

A Historic Preservation Commission is hereby established pursuant to NCGS 160A-400.7. Pursuant to Section 4 NCGS 160A-400.5, nothing in this Ordinance shall affect the status of any historic district or historic property established or designated under the authority of Part 3 of Article 19 of Chapter 160A of the General Statutes; such establishment or designation being prior to the effective date of this Ordinance. Nothing in this Ordinance shall affect the validity of the Guilford County Joint Historic Properties Commission created by Ordinance 80-86 dated October 6, 1980.

30-9-5.2 Membership

(A) Number of Members: The Historic Preservation Commission shall consist of nine (9) members who shall be appointed by the City Council for terms to expire as of August 15.

(B) District Representation: Each historic district shall be represented by at least one (1) person on the Historic Preservation Commission.

(C) Qualification for Membership: Members shall be residents of the City and be qualified based on demonstrated interest or experience in history, architectural history, historic preservation, architecture, archaeology, planning, or related fields.

(D) Designation: The Guilford County Joint Historic Properties Commission may be designated by a Jurisdiction to perform the duties of a Historic Preservation Commission.

30-9-5.3 Quorum

Five (5) members of the Historic Preservation Commission shall constitute a quorum. The concurrence of at least a majority of those members present will be required before any recommendation or action is made on any matter considered. When any matter is transmitted to the City Council without recommendations, the reasons for the lack of a recommendation shall be stated.

30-9-5.4 Powers and Duties

The Historic Preservation Commission shall have the following powers and duties:

(A) to recommend to the City Council areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";

(B) to undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;

(C) to grant or deny the issuance of a Certificate of Appropriateness in accordance with this Ordinance. The Commission may hold public hearings on the issuance or revocation of such Certificates;

(D) to make recommendations to the Zoning Commission and City Council concerning requests for zoning map amendments, Conditional Zoning Districts, or Special Use Permits affecting historic properties or districts; and to make recommendations to the Board of Adjustment concerning variances or special exceptions affecting historic properties or districts;

(E) to recommend appropriate changes to this Ordinance which relate to historic districts or which relate to the preservation of historic structures, landmarks, or areas within the jurisdiction of the City Council;

(F) to acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established historic districts or to any such properties designated as landmarks; to hold, manage, preserve, restore, and improve the same; and to exchange or dispose of the property by public or private sale, lease, or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(G) to restore, preserve, and operate historic properties;

(H) to recommend to the City Council that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;

(I) to conduct an educational program with respect to historic properties and districts within its jurisdiction;

(J) to prepare and recommend the official adoption of a preservation element as part of the City's comprehensive plan;

(K) to negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation when such action is reasonably necessary or appropriate;

(L) to cooperate with the State, federal, and local governments in pursuance of the purposes of Section 30-1-3.5 (Historic Preservation Overlay Purposes). The City Council or the Historic Preservation Commission when authorized by the City Council may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law;

(M) to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Historic Preservation Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(N) to review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Section; and

(O) to exercise other powers and authority provided to it by the City Council, this Ordinance, and State law.

30-9-6 BOARD OF ADJUSTMENT

30-9-6.1 Authority

A Board of Adjustment is hereby established pursuant to NCGS 160A-338.

30-9-6.2 Membership

The Board of Adjustment shall consist of seven (7) members who shall be appointed by the City Council; provided that alternate members may be appointed as provided by State law.

30-9-6.3 Quorum

Four (4) members of the Board of Adjustment shall constitute a quorum.

30-9-6.4 Powers and Duties

(A) General: Except as provided in subsection (B) below, the Board of Adjustment shall have the following powers and duties:

- 1) to hear and decide appeals from and review any zoning order, requirement, decision, determination, or interpretation made by an

administrative official charged with enforcing this Ordinance;

2) to review appeals from the proceedings of the Historic Preservation Commission concerning the issuance of a Certificate of Appropriateness, limited to certiorari;

3) to hear and decide requests for any special exceptions which are specifically delegated to it by this Ordinance;

4) to vary and modify application of zoning regulations in harmony with their general purpose and intent and in accordance with general and specific rules contained therein;

5) to hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation and enforcement of the zoning provisions of this Ordinance result in a loss of privileges shared by other properties within the same zoning district;

6) to interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions as they arise in the administration of this Ordinance;

7) to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance;

8) to determine upon application of an owner, or referral from the Enforcement Officer, whether a proposed nonconforming use is equal or less intensive than an existing, legal nonconforming use, in accordance with Section 30-4-11.2 (Nonconforming Use of Land); and

9) To review appeals from the proceedings of the Advisory Commission on Trees with regard to alternate methods of compliance, limited to certiorari.

(B) Watershed Exception: The Planning Board, the City Council, and the N.C. Environmental Management Commission are the bodies charged with hearing requests and appeals dealing with the requirements of Sections 30-7-1 (Water Supply Watershed Districts), 30-7-2 (General Watershed Areas), and 30-7-3 (Watershed Critical Areas). Refer to Section 30-9-11.5 (Modification of Water Supply Watershed Standards).

30-9-6.5 Oaths and Subpoena Powers

(A) Oaths: The Chairman of the Board, or any member temporarily acting as Chairman, shall administer oaths to witnesses in any matter coming before the Board.

(B) Subpoena Powers: The Board may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice for an order requiring

that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board, willfully swears falsely is guilty of a misdemeanor.

30-9-6.6 Voting

(A) Required Vote for Approval: A concurring vote of four members shall be required:

- 1) to reverse or modify any order, requirement, decision, determination, or interpretation of an administrative officer charged with enforcing this Ordinance;
- 2) to decide in favor of the applicant any matter upon which the Board is required to pass under this Ordinance;
- 3) to grant a variance from the provisions of this Ordinance; or
- 4) to grant special exceptions as may be assigned by this Ordinance.

(B) Vote of the Chairman: The Board chairman shall vote as any other Board member.

(C) Continuance: The Board may continue the public hearing or delay voting on any matter to a subsequent meeting upon showing of good cause.

30-9-6.7 Notice of Decision

The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

30-9-6.8 Court Review

(A) Appeal to Superior Court: Every decision of the Board shall be subject to Superior Court review by proceedings in the nature of certiorari.

(B) Timing of Appeal: Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

- 1) the decision of the Board is filed in the Planning Department; or
- 2) a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case.

30-9-6.9 Appeals To The Board

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(A) Appeal Eligibility: Any person aggrieved or any officer, department, board, or bureau of the City may make an appeal.

1) Appeals shall be made within the time prescribed by the Board by filing, with the officer from whom the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof.

2) The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(B) Effect of Appeal: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance.

(C) Effect of Certification: If certification occurs in accordance with Section 30-9-6.9(B) (Effect of Appeal), proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of competent jurisdiction, on due cause shown. The issuer of the restraining order shall notify in writing the officer from whom the appeal is taken.

(D) Notice of Hearing: The Board shall fix a reasonable time for hearing the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time.

(E) Action of Board: The Board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, determination, or interpretation appealed from, and shall make any order, requirement, decision, determination, or interpretation that in the Board's opinion ought to be made under the circumstances. The Board shall have all of the powers of the Board from whom the appeal is taken.

(F) Conditions of Rehearing: The Board shall not be required to hear an appeal or application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

30-9-6.10 Variances

(A) Application: An application for a variance shall be submitted in writing to the Board by filing a copy of the application with the Enforcement Officer.

(B) Procedure: The Board shall:

1) fix a reasonable time for holding a public hearing on the variance request;

2) give notice of the variance request as prescribed in Section 30-9-1.2

(Notice); and

3) decide the variance request within a reasonable time.

(C) General Requirements:

1) The Board shall make findings of fact that the requirements of Section 30-9-6.10(D) (Granting of Variance) have been met by the applicant.

2) The Board shall not, under any circumstances, grant a variance to permit a use or density not otherwise permitted by this Ordinance in the zoning district involved.

3) Any variance granted by the Board shall be the minimum variance that will make possible the reasonable use of the land, building, or structure. The fact that property may be utilized for greater profit, however, will not be considered adequate to justify the granting of a variance.

4) Neither the nonconforming use of lands, buildings, or structures in the same zoning district; nor the permitted use of lands, buildings, or structures in other zoning districts; nor personal circumstances shall be considered as grounds for the issuance of a variance. Furthermore, mere financial hardship does not constitute grounds for the granting of a variance.

5) A variance may be granted where a building permit has been issued and, due to unintentional error of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional requirements, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance.

(D) Granting of Variance: A variance may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

1) There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this Ordinance. The Board may reach this conclusion if it finds that:

a) if the applicant complies with the provisions of this Ordinance, he can make no reasonable use of his property;

b) the hardship of which the applicant complains results from unique circumstances related to the applicant's property;

c) the hardship results from the application of this Ordinance to the property; and

d) the hardship is not the result of the applicant's own actions.

2) The variance is in harmony with the general purpose and intent of this

Ordinance and preserves its spirit.

3) The granting of the variance assures the public safety and welfare and does substantial justice.

(E) Conditions: In granting a variance, the Board may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property to which the variance applies will be compatible with surrounding properties and will not alter the essential character of the neighborhood.

1) A variance granted subject to a condition shall be permitted only so long as there is compliance with the condition.

2) Violations of such conditions and safeguards, when a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

3) In the event that any such condition is held invalid, for any reason, such holding shall have the effect of invalidating the variance granted and shall render the variance null and void.

4) If a violation or invalidation of a condition of a variance occurs, the Enforcement Officer may revoke the Certificate of Compliance.

(F) Duration: The Board may specify a time duration within which construction, operation, or installation shall commence. Unless otherwise specified, construction, operation, or installation shall be commenced within twelve (12) months of the date of issuance of a variance or it shall become void. If construction or operation is commenced within the specified time period, the variance shall continue in force so long as the affected building, operation, or installation remains.

30-9-6.11 Special Exceptions

(A) Application: An application for a special exception shall be submitted in writing to the Board by filing a copy of the application with the Enforcement Officer.

(B) Procedure: The Board shall:

1) fix a reasonable time for holding a public hearing on the special exception request;

2) give notice of the special exception request as prescribed in Section 30-9-1.2 (Notice); and

3) decide the special exception request within a reasonable time.

(C) General Requirements:

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1) The Board shall make findings of fact that the requirements of Section 30-9-6.11 (D) (Granting of Special Exception) have been met by the applicant.

2) All special exceptions shall be nontransferable, may be authorized and issued for either a limited or an indefinite period of time, and shall be revocable by the Board at any time for failure to comply with the requirements of this Ordinance or any imposed condition or safeguard.

3) All special exception requests for property within a historic district shall be accompanied by a recommendation from the Historic Preservation Commission.

(D) Granting of Special Exception: A special exception may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

1) The special exception is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.

2) The granting of the special exception assures the public safety and welfare and does substantial justice.

(E) Conditions: In granting a special exception, the Board may prescribe such reasonable and appropriate conditions and safeguards with respect to location, design, construction, equipment, maintenance, or operation as it may deem advisable so that the purpose of this Ordinance will be served, public welfare secured, and substantial justice done. If such conditions and safeguards are accepted by the applicant, the Board shall grant the special exception; otherwise the special exception shall be denied.

1) A special exception granted subject to a condition shall be permitted only so long as there is compliance with the condition.

2) Violations of such conditions and safeguards, when a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance.

3) In the event that any condition is held invalid, for any reason, such holding shall have the effect of invalidating the special exception granted and shall render the special exception null and void.

4) If a violation of a condition of a special exception occurs, the Enforcement Officer shall give the special exception holder written notice (by certified or registered mail or by personal service) that the matter shall be placed on the agenda for a hearing at the next scheduled meeting of the Board for the purpose of revoking the special exception; however, the Board shall afford the person aggrieved an opportunity to be heard.

(F) Duration: The Board may specify a time duration within which construction, operation, or installation shall commence. Unless otherwise specified, construction, operation, or installation shall be commenced within twelve (12) months of the date of issuance of a special exception or it shall become void.

(G) Specific Requirements: Where specific requirements or conditions are listed in this Ordinance as a prerequisite to granting a special exception, the Board shall not grant a variance of those requirements or conditions.

30-9-6.12 Flood Damage Prevention Appeals

(A) Authority: The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood damage prevention provisions of this Ordinance.

(B) Appeal and Variance Considerations: In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

- 1) the danger that materials may be swept onto other lands to the injury of others;
- 2) the danger to life and property due to flooding or erosion damage;
- 3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) the importance of the services provided by the proposed facility to the community;
- 5) the necessity to the facility of a waterfront location, where applicable;
- 6) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 7) the compatibility of the proposed use with existing and anticipated development;
- 8) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- 9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- 10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;

11) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and

12) the effect that granting the appeal or variance would have on the City's eligibility for Federal Flood Insurance.

(C) Granting of Variances:

1) Variances may be granted for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

2) Variances shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.

3) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4) Variances shall only be granted upon:

i) a showing of good and sufficient cause;

ii) a determination that failure to grant the variance would result in exceptional hardship; and

iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

30-9-7 REDEVELOPMENT COMMISSION

30-9-7.1 Authority

A Redevelopment Commission is hereby established pursuant to NCGS 160A-504.

30-9-7.2 Membership

The Redevelopment Commission shall consist of five (5) members who shall be appointed by the Mayor and City Council. Members shall be residents of the City.

30-9-7.3 Findings and Declaration of Policy

On the basis of studies and investigations heretofore made by agencies of the City and on the basis of a consideration thereof by the City Council, and after a consideration of facts and information brought to the attention of the City Council, the City Council finds:

(A) that there are within the territorial limits of the City areas in which there is a predominance of buildings or improvements, predominantly residential in character, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowded, unsanitary or unsafe conditions, endanger life and property by fire and other causes, and which conditions substantially impair the sound growth of the community, and which conditions are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and which are detrimental to the public health, safety, morals, and welfare of the community, and which areas, by reason of the aforesaid conditions, are blighted areas now existing within the territorial limits of the City; and

(B) that the redevelopment of such areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City.

30-9-7.4 Powers and Duties

The Redevelopment Commission shall function within the territorial limits of the City. It is hereby vested with all the powers and duties and shall perform all the acts authorized by NCGS 160A-500 et seq.

30-9-8 GUILFORD COUNTY JOINT HISTORIC PROPERTIES COMMISSION

30-9-8.1 Purpose

The historical heritage of the County is one of its most valued and important assets. Conservation of historic properties will stabilize and increase the values in their areas and strengthen the overall economy of the County and State. By means of listing, regulation, and acquisition of historic properties Gibsonville, Greensboro, Guilford County, High Point, and Jamestown seek within their respective zoning jurisdictions:

(A) to safeguard its heritage by preserving any property therein that embodies important elements of its cultural, social, economic, political, or architectural history; and

(B) to promote the use and conservation of such property for the education, pleasure, and enrichment of the residents of the County and State.

30-9-8.2 Authority

A Guilford County Joint Historic Properties Commission is hereby established pursuant to NCGS 160A-399.1 et seq.

30-9-8.3 Membership

(A) Number of Members: The Guilford County Joint Historic Properties Commission shall consist of eleven (11) members with four (4) appointed by the Guilford County Board of Commissioners, three (3) appointed by the Greensboro City Council, two (2) appointed by the High Point City Council, one (1) appointed by the Gibsonville Town Council, and one (1) appointed by the Jamestown Town Council.

(B) Appointments: In establishing the Commission and making appointments to it, the above-named board and councils may seek the advice of such State or local historical agencies, societies, or organizations as it may deem necessary.

(C) Compensation: The Commission shall serve without monetary compensation.

30-9-8.4 Representation

All members of the Historic Properties Commission shall be residents of the County and each shall reside within the jurisdiction of the Board of Commissioners or council appointing them representative. A majority of the members shall have demonstrated special interest, experience, or education in history or architecture.

30-9-8.5 Tenure

Members of the Historic Properties Commission shall serve overlapping terms of four (4) years. Initially, two (2) appointees by the County and one (1) appointee each from Gibsonville, Greensboro, High Point, and Jamestown shall be appointed for two (2) years. Thereafter, all appointments shall be for a term of four (4) years. A member may be reappointed for a second consecutive term, but after two (2) consecutive terms a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of his or her second term. Appointments to any vacancy shall be for the remainder of the term of the vacant position for which the appointment is made.

30-9-8.6 Attendance of Meetings

Any member of the Historic Properties Commission who misses more than three (3) consecutive regular meetings or more than one-half the regular meetings in a calendar year without excuse granted by the Commission shall lose his status as a member of the Commission and shall be replaced or reappointed by the appropriate Board of Commissioners or council.

30-9-8.7 Meetings

The Historic Properties Commission shall hold meetings regularly at least once each month unless there is not sufficient business to warrant a meeting; but not more than sixty (60) days shall expire without a regular or special meeting of the Commission. All meetings shall be held in accordance with NCGS 143-318.9 et seq. Reasonable notice of the time and place thereof shall be given to the public.

30-9-8.8 Rules of Procedure

The Historic Properties Commission shall prepare and adopt rules of procedure for the conduct of its business. The Commission shall keep a public record of its members' attendance and of its resolutions, findings, and recommendations.

30-9-8.9 Annual Report

The Historic Properties Commission shall prepare and submit an annual report to the Guilford County Board of Commissioners, the Gibsonville and Jamestown Town Councils, and the Greensboro and High Point City Councils. Such report shall include a comprehensive and detailed review of the activities, problems, and actions of the Commission as well as any budget requests or recommendations.

30-9-8.10 Quorum and Vote Required

Six (6) members of the Historic Properties Commission shall constitute a quorum. The concurrence of at least a majority of those members present shall be required before any recommendation of action is made on any matter considered.

30-9-8.11 Private Interest of Members

No member of the Historic Properties Commission may discuss, advocate, or vote on any matter in which he has a separate, private, or monetary interest, either direct or indirect, and no member may discuss before a governing board or council any matter which has been, is, or will be considered by the Commission on which he serves, and in which he has a separate, private, or monetary interest, either direct or indirect. Any member who violates this Section may be subject to removal from the Commission.

30-9-8.12 Powers and Duties

The Historic Properties Commission shall have the following powers and duties:

(A) to recommend to the County Board of Commissioners, the Gibsonville and Jamestown Town Councils, and the Greensboro and High Point City Councils, building, structures, sites, areas, or objects within the corresponding zoning jurisdiction to be designated by ordinance as historic properties;

(B) to acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such historic properties; to hold, manage, preserve, restore, and improve the same; and to exchange or dispose of the property by public or private sale, lease, or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;

(C) to restore, preserve, and operate such historic properties;

(D) to recommend to the Board of Commissioners or councils that designation of any

building, structure, site, area, or object as a historic property be revoked or removed;

(E) to conduct an educational program on historic properties within its jurisdiction;

(F) to cooperate with the State, federal, and local governments in pursuance of the purposes of this Section. The Commission when authorized by the Board of Commissioners and councils may contract with the State or the United States of America, or any agency or with any other organization, provided the terms are not inconsistent with State or federal laws;

(G) to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(H) to act as, establish, or designate a group, body, or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties such as color schemes, gardens and landscape features, and minor decorative elements;

(I) to take steps, during the period of postponement of demolition or alteration of any historic property, to ascertain what the Board of Commissioners or councils can or may do to preserve such properties including consultation with private civic groups, interested private citizens, and other public boards or agencies and including investigation of potential acquisition by the Board of Commissioners or councils when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic and architectural significance;

(J) to propose to the Board of Commissioners and councils changes to this or any other ordinance and propose new ordinances or laws relating to historic properties or relating to a total program for the protection and/or development of the historic resources of the County, the municipalities therein, and its environs;

(K) to communicate with other boards or commissions or with agencies of the local government or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;

(L) to publish information about or otherwise inform the public of any matters pertinent to its purview, duties, organization, procedures, responsibilities, functions, or requirements as its budget may allow;

(M) to report violations of this Section, the zoning ordinances, or the building code with respect to historic properties to the Enforcement Officer of the jurisdiction within which the historic property is located;

(N) to accept funds granted to the Commission for preservation purposes from private individuals and organizations;

(O) to organize itself and conduct its business; and

(P) to exercise other powers and authority provided to it by the Board of Commissioners and councils, this Ordinance, and State law.

30-9-8.13 Adoption of an Ordinance of Designation

Upon compliance with the procedures set out in Section 30-9-8.16 (Designation Procedure), the County Board of Commissioners, the Gibsonville and Jamestown Town Councils, and the Greensboro and High Point City Councils may adopt, amend, or repeal an ordinance designating one (1) or more historic properties. The ordinance shall describe each property designated therein, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, and/or archaeological value, including the approximate area of surrounding land, and any other information the appropriate Board of Commissioners or council deems necessary within the authority of this Section. For each building, structure, site, area, or object designated as a historic property, the ordinance shall require that the waiting period set forth in Section 30-9-8.17 (Certificate of Appropriateness Required) be observed prior to its demolition, material alteration, remodeling, or removal. For each designated historic property, the ordinance shall also provide for a suitable sign on the property that the property has so been designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

30-9-8.14 Criteria for Designation

No property shall be recommended for designation as a historic property unless it is deemed and found by the Historic Properties Commission to be of special significance in terms of its history, architecture, and/or cultural design, setting, workmanship, materials, feeling, and/or association.

30-9-8.15 Inventory

An inventory of all properties of historical, architectural, and archaeological significance has been completed for the County, High Point, Jamestown, Greensboro, and Gibsonville. The inventory shall serve as a guide for the identification, assessment, and designation of historic properties.

30-9-8.16 Designation Procedure

No ordinance designating a historic building, structure, site, area, or object nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic Properties Commission or the Board of Commissioners or council until the following procedural steps have been taken:

(A) Adoption of Principles and Guidelines: The Historic Properties Commission shall prepare and adopt principles and guidelines, not inconsistent with this Section, for altering, restoring, moving, or demolishing properties designated as historic.

(B) Investigation and Report Required: The Historic Properties Commission shall make or cause to be made an investigation and report on the historic, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such investigation or report shall be forwarded

to the Division of Archives and History of the North Carolina Department of Cultural Resources.

(C) State Review and Comment: The Department of Cultural Resources, acting through any employee designated by the Secretary of the State Historical Commission, shall either upon request of the Department or at the initiative of the Historic Properties Commission be given an opportunity to review and comment upon the substance and effect of the designation of any historic property pursuant to this Section. Any comments shall be provided in writing. If the Department does not submit its comments or recommendations in connection with any designation within thirty (30) days following receipt by the Department of the investigation and report of the Commission, the Commission and any City Council shall be relieved of any responsibility to consider such comments.

(D) Public Hearing: The Historic Properties Commission and the Board of Commissioners or council shall hold a public hearing on the proposed ordinance of designation. Reasonable notice of the time and place thereof shall be given.

(E) Final Action: Following the joint public hearing, the Board of Commissioners or council may adopt the ordinance of designation as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(F) Notice:

- 1) Upon adoption of the ordinance of designation, the owners and occupants of each designated historic property shall be given written notification of such designation by the Board of Commissioners or council insofar as reasonable diligence permits.

- 2) Upon adoption of the ordinance of designation or any amendment thereto, it shall be the duty of the Historic Properties Commission to give notice thereof to the County tax supervisor.

(G) Filing of Ordinance:

- 1) One (1) copy of the ordinance and each amendment thereto shall be filed by the Historic Properties Commission in the Office of the County Register of Deeds. Each historic property designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Office of the County Register of Deeds and the Commission shall pay a reasonable fee for filing and indexing.

- 2) In the case of any property lying within the zoning jurisdiction of Gibsonville, Greensboro, High Point, or Jamestown, a second copy of the ordinance and each amendment thereto shall be kept on file in the Office of the City, County, or Town Clerk and be made available for public inspection at any reasonable time.

- 3) A third copy of the ordinance and each amendment thereto shall be given

to the Town, City, or County building inspector depending upon the zoning jurisdiction in which the property is located.

(H) Indication on Tax Maps: The fact that a building, structure, site, area, or object has been designated a historic property shall be clearly indicated on all tax maps maintained by the Town, City, or County for each such period as the designation remains in effect.

(I) Appraisal for Tax Purposes: The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

30-9-8.17 Certificate of Appropriateness Required

A property which has been designated as a historic property as provided in this Section may be materially altered, restored, moved, or demolished only following the issuance of a Certificate of Appropriateness by the Historic Properties Commission in accordance with the procedures and standards set forth in NCGS 160A-395 et seq. Certificates of Appropriateness for designated properties located in historic districts shall be issued and processed by the local Historic Preservation Commission. An application for a Certificate of Appropriateness authorizing the demolition of a designated building or structure or the destruction of an object may not be denied. However, the effective date of such a Certificate may be delayed for a period of up to one hundred eighty (180) days from the date of approval. The maximum period of delay (one hundred eighty (180) days) shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be deprived of beneficial use of or return from such property by virtue of the delay. During such period the Historic Properties Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure, or object.

30-9-8.18 Certain Changes Not Prohibited

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations.

30-9-8.19 Criteria for Commission Review

To provide guidelines to owners of historic properties; to provide reasonable standards to assist the Historic Properties Commission in its review, during the waiting period required by Section 30-9-8.17 (Certificate of Appropriateness Required), of an owner's proposed demolition, material alteration, remodeling, or removal of a historic property; and to provide reasonable standards to assist the Commission in determining whether to recommend the revocation or removal of historic property designation on account of a change in a property which has caused its historical significance to be lost or substantially impaired, the Historic Properties Commission shall adopt criteria for review which shall be submitted to the Board of Commissioners or council for its approval prior to the Commission's review of an owner's application for Certificate of

Appropriateness and prior to the Commission's recommendation of revocation or removal of designation.

30-9-8.20 Conditions to Certain Approvals for Authentic Restoration or Reconstruction

In the event that the Historic Properties Commission, in reviewing an owner's application for a Certificate of Appropriateness during the waiting period required by Section 30-9-8.17 (Certificate of Appropriateness Required), shall find that a building or structure for which a building permit is required is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the Board of Adjustment authorizes such restoration or reconstruction and no use other than that permitted in the district in which it is located is made of said property. Such conditions as may be set by the Historic Properties Commission and the Board of Adjustment shall be conditions for the issuance of the building permit.

30-9-8.21 Required Data

The Historic Properties Commission shall require data as are reasonably necessary to determine the nature of the owner's proposed actions which are made known to the Commission when the owner submits the application for a Certificate of Appropriateness and during the waiting period required by Section 30-9-8.17 (Certificate of Appropriateness Required). The owner's application for a Certificate of Appropriateness shall not be considered complete until such required data has been submitted.

30-9-8.22 Files To Be Kept

All of the data required shall be filed with the County Manager or his designee, who shall cause said data to be submitted to the Historic Properties Commission.

30-9-8.23 Record of Action Taken by Commission

The Historic Properties Commission shall maintain a file containing records of all written notices of proposed actions submitted to the Commission, reasons underlying all actions, drawings submitted for review, and subsequent amendments.

30-9-8.24 Authority to Acquire Historic Properties

When such action is reasonably necessary or appropriate for the preservation of a designated historic property, the Historic Properties Commission may negotiate at any time with the owner for its preservation as allowed by NCGS 160A-360 et seq.

30-9-8.25 Receipt and Expenditure of Funds

The Town, City, or County governing body is authorized to make appropriations to the Historic Properties Commission established pursuant to this Section in any amount that it may determine necessary for the expenses of the operation of the Commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic

properties, or of land on which historic buildings or structures are located or to which they may be removed.

30-9-8.26 Staff and Technical Services

The Historic Properties Commission may recommend to the local governing body suitable arrangements for the procurement or provision of staff or technical services to the Commission.

30-9-8.27 Ownership of Property

All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by a Board of Commissioners or council pursuant to this Section shall be acquired in the name of the Board of Commissioners or council. So long as owned by a City, Town, or the County, historic properties may be maintained by or under the supervision and control of the City, Town, or the County. However, all lands, buildings, or structures acquired by the Historic Properties Commission from funds other than those appropriated by a City, Town, or the County may be acquired and held in the name of the Historic Properties Commission, the City, Town, or the County, or both.

30-9-8.28 Section Applies to Publicly Owned Buildings and Structures

Designated historic buildings, structures, sites, areas, or objects owned by the State or any of its political subdivisions, agencies, or instrumentalities shall be subject to the regulations imposed by this Section, pursuant to the authority of NCGS 160A-399.11

30-9-8.29 Conflict with Other Laws

Whenever this Section requires a longer waiting period or imposes other higher standards with respect to a designated historic property than are established under any other statutes, charter provision, regulation, or ordinance, this Section shall govern. Whenever the provisions of any other statute, charter provision, regulation, or ordinance require a longer waiting period or impose other higher standards than are established under this Section, such other statute, charter provision, regulation, or ordinance shall govern.

30-9-8.30 Remedies

In case any building, structure, site, area, or object designated a historic property is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, or removed, except in compliance with this Section, a City, Town, or the County or the Historic Properties Commission may institute any appropriate action or proceeding to prevent such unlawful demolition, material alteration, remodeling, or removal; to restrain, correct, or abate such violation; or to prevent any illegal act or conduct with respect to such historic property.

30-9-9 MULTIJURISDICTIONAL DEVELOPMENT ORDINANCE COMMITTEE

30-9-9.1 Authority

A committee known as the Multijurisdictional Development Ordinance Committee (MDOC) is hereby established pursuant to Section 30-3-15.2 (B) (Referral to MDOC).

Membership 30-9-9.2

The MDOC shall consist of two (2) members appointed by each participating jurisdiction who shall be residents of the jurisdiction they represent. The Zoning Commission and the Planning Board shall each appoint one (1) of its member to serve a one (1) year term

Quorum 30-9-9.3

A quorum shall be as set forth in the MDOC's adopted Rules of Procedure.

30-9-9.4 Powers and Duties

The MDOC shall have the following powers and duties:

- (A) To adopt Rules of Procedure for its organization and operation, subject to an affirmative vote of two-thirds (2/3) of the members;
- (B) To review text amendments to this Ordinance and make recommendations to the Planning Board and/or Zoning Commission, and the City Council; and
- (C) To perform any other related duties that the City Council may direct.

30-9-10 ENFORCEMENT OFFICER

30-9-10.1 Establishment and Authority

The City Manager shall appoint the Enforcement Officer(s) to administer and enforce the provisions of this Ordinance. The Enforcement Officer may be provided with agents to assist in administration and enforcement as directed by the City Council.

30-9-10.2 General Duties

The Enforcement Officer(s) shall:

- (A) establish application procedures for permits, appeals, and actions pursuant to this Ordinance and make available forms implementing the same;
- (B) review development plans and permits to assure that the requirements of this Ordinance have been satisfied;
- (C) approve development plans where such duty is assigned by this Ordinance;
- (D) Section 30-5-1.5: Sidewalks (see most recent version of City of Greensboro Sidewalk Manual for guidance)
- (E) Section 30-5-2.54(B): General Requirements (for manufactured dwelling parks and recreational vehicle parks)

(F) Section 30-5-2.54(C): Manufactured Dwelling Park Requirements

(G) Section 30-5-2.54(D): Recreational Vehicle Park Regulations

(H) Section 30-5-4: Landscaping Requirements

(I) Section 30-6-9: Permanent Runoff Control Structures

(J) Section 30-6-10: Owners' Associations

(K) Section 30-6-13.1(B): Development Name

(L) Section 30-6-13.2: Lot Dimensions and Standards

(M) Section 30-6-13.3: Streets

(N) Section 30-6-13.4: Block Length

(O) Section 30-6-13.5: Sidewalks

(P) Section 30-6-13.6: Utilities

(Q) Section 30-6-13.7: Drainage

30-9-10.3 Flood Damage Prevention Administration Duties

The Enforcement Officer shall:

(A) advise permittee that additional federal or State permits may be required, and if specific federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit;

(B) notify adjacent communities and the N. C. Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse within a designated Flood Hazard Boundary, and submit evidence of such notification to the Federal Emergency Management Agency;

(C) provide the NC Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two (2) copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries;

(D) assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(E) prevent encroachments within floodways unless the certification and flood damage prevention provisions are met;

(F) verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;

(G) verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed;

(H) when floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect;

(I) where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article; and

(J) when base flood elevation data or floodway data have not been provided, the Enforcement Officer(s) shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, State, or other source, including data developed pursuant to this Ordinance, in order to administer the provisions of this Ordinance.

30-9-10.4 Historic District Requirements

Subject to a Certificate of Appropriateness, the Enforcement Officer may issue permits for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places under the conditions set forth in Section 30-4-4.2 (Historic Districts).

30-9-11 MODIFICATIONS

30-9-11.1 Purpose

Recognizing that it is sometimes possible to provide equal or better performance in furtherance of the purposes of this Ordinance through use of means other than those specified herein, the City Council finds it to be reasonably necessary and expedient that provisions be made for flexibility in administration of certain standards in this Ordinance.

30-9-11.2 Application

Proposed modifications of certain standards as applied to particular developments are properly evaluated only in conjunction with technical review of a site plan, subdivision plat, or watershed control plat. The modifications being applied for shall be portrayed on such plans and shall be approved, approved with conditions, or denied along with the approval or denial of such plans. To obtain approval of a modification, the burden shall be upon the developer or property owner to demonstrate that the alternate standards portrayed on the plan will yield equal or better performance in furtherance of the purposes of this Ordinance.

30-9-11.3 Approval Body

Recognizing that the evaluation of proposed alternate means intended to offer equal or better performance normally requires technical expertise and is best accomplished in conjunction with review of development plans, the City Council hereby designates the Technical Review Committee to be the appropriate planning agency to approve modifications, except as otherwise provided in Section 30-9-11.5 (Modification of General Watershed Area and Watershed Critical Area Standards) and in Section 9.11.6 (Minor Modifications of Conditions in Conditional Zoning Districts or Special Use Permits).

30-9-11.4 Sections Affected

The Technical Review Committee or, on appeal, the Planning Board or City Council may approve modifications to standards in the following articles, sections, and subsections:

- (A) Section 30-4-6.2(C): Minimum Street and Interior Setbacks and Minimum Building Separation (in Table 30-4-6-4) and Open Space and/or Recreational Facilities (Subsection 30-4-6.2(C)1g)), in developments where the yard space triangle requirements of Subsection 30-4-6.2(C)2a) apply
- (B) Section 30-4-6.2(C)2): Additional Requirements (for multifamily developments)
- (C) Section 30-4-6.4: Traditional Neighborhood District Dimensional Requirements (in Table 30-4-6-6)
- (D) Section 30-5-2.54(B): General Requirements (for manufactured dwelling parks and recreational vehicle parks)
- (E) Section 30-5-2.54(C): Manufactured Dwelling Park Requirements
- (F) Section 30-5-2.54(D): Recreational Vehicle Park Regulations
- (G) Section 30-5-4: Landscaping Requirements
- (H) Section 30-6-9: Permanent Runoff Control Structures
- (I) Section 30-6-10: Owners' Associations
- (J) Section 30-6-13.1(B): Development Name
- (K) Section 30-6-13.2: Lot Dimensions and Standards
- (L) Section 30-6-13.3: Streets
- (M) Section 30-6-13.4: Block Length
- (N) Section 30-6-13.5: Sidewalks (see most recent version of City of Greensboro Sidewalk Manual for guidance)
- (O) Section 30-6-13.6: Utilities

(P) Section 30-6-13.7: Drainage

30-9-11.5 Modification of Water Supply Watershed Standards

(A) Minor Watershed Modifications: Recognizing that the evaluation of requests for minor modifications of standards in Sections 30-7-1 (Water Supply Watershed Districts), 30-7-2 (General Watershed Areas), and 30-7-3 (Watershed Critical Areas) involves both technical evaluations (normally conducted by the Enforcement Officer and the Technical Review Committee) and evaluations made in light of both water supply watershed protection policies and fundamental fairness (normally conducted by the Planning Board and City Council), the City Council hereby designates the Planning Board to be the appropriate planning agency to approve minor watershed modifications in General Watershed Areas and the City Council to be the appropriate body to approve minor watershed modifications in Watershed Critical Areas. The approval procedure shall be as follows:

- 1) In General Watershed Areas (GWA) the Technical Review Committee shall conduct a technical evaluation and report its findings to the Planning Board, which shall approve or deny the modification request.
- 2) In Watershed Critical Areas (WCA) the Technical Review Committee shall conduct a technical evaluation and report its findings to the Planning Board. The Planning Board shall make a recommendation to the City Council, which shall approve or deny the modification request.

(B) Major Watershed Modifications: Recognizing that major watershed modifications are only approvable in unique circumstances on a case-by-case basis by the NC Environmental Management Commission (EMC) pursuant to Section .0104(r) of the EMC Rules, the City Council hereby designates the EMC as the appropriate agency to approve major watershed modifications, pursuant to the EMC Rules. The approval procedures shall be the same as in subsections (A) 1) and (A) 2) above, except that the Planning Board and City Council shall make recommendations to the EMC, which shall approve or deny major watershed modification requests.

(C) Notification of Other Affected Jurisdictions: For each request for a minor or major watershed modification, the Technical Review Committee shall notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption. A comment period of at least fourteen (14) days shall be allowed before the Planning Board hearing.

(D) Annual Report: A report containing a description of each project receiving a watershed modification and the reasons for approval of the modification shall be sent to the EMC on an annual basis by January 1.

30- 9-11.6 Minor Modifications of Conditions in Conditional Zoning Districts or Special Use Permits.

Recognizing that the evaluation of requests for minor modifications of conditions in Conditional

Zoning Districts and Special Use Permits involves both technical evaluations and evaluations made in light of policies underlying the conditions, the City Council hereby designates the Planning Board to be the appropriate planning agency to approve such minor modifications, after receipt of a report from the Technical Review Committee.

30-9-11.7 Grounds for Modification

(A) Equal or Better Performance: A finding by the Technical Review Committee that equal or better performance in furtherance of the purposes of this Ordinance will result from the alternate standards portrayed on the plan constitutes grounds for approval of a modification. The evaluation of performance shall be made with regard to one purpose in Section 30-1-3 (Purpose) if only one purpose is affected. If performance with regard to more than one purpose in Section 30-1-3 (Purpose) is affected, the evaluation shall be made with regard to overall performance in furtherance of the purposes of this Ordinance. If an alternate standard as portrayed on the plan reduces performance with regard to one or more Ordinance purposes but produces a concomitant and counterbalancing superiority of performance with regard to one or more other purposes, a modification may be approved.

(B) Physical Constraints: A finding by the Technical Review Committee that the size, topography, or existing development of the property or of adjoining areas prevents conformance with a standard constitutes grounds for approval of a modification.

(C) Other Constraints: A finding by the Technical Review Committee that a federal, State, or local law or regulation prevents conformance with a standard constitutes grounds for approval of a modification.

(D) Grounds for Major Watershed Modifications: Approvals of major watershed modifications, but not other modifications, shall be based upon the following three findings:

- 1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the approval body must find that the five following conditions exist:

- a) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the modification would permit a greater profit to be made from the property will not be considered adequate to justify the granting of a modification. Moreover, the approval body shall consider whether the modification is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

- b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then applies for relief.

e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a modification would be a special privilege denied to others, and would not promote equal justice.

2) The modification is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

3) In the granting of the modification, the public safety and welfare have been assured and substantial justice has been done. The approval body shall not grant a modification if it finds that doing so would in any respect impair the public health, safety, or general welfare.

30-9-11.8 Conditions

In approving a modification, the Technical Review Committee, Planning Board, City Council, or Environmental Management Commission (EMC) may prescribe such reasonable and appropriate conditions and safeguards as will assure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Violations of conditions and safeguards which are part of the terms of modification approval shall be deemed a violation of this Ordinance.

30-9-11.9 Appeals

Appeals may be made pursuant to Section 30-3-11.4(C) (Action by Technical Review Committee), Section 30-3-11.4(D) (Action by Planning Board), and Section 30-6-7.7 (Appeals). Appeals of decisions on major watershed modifications must be made on certiorari to the Guilford County Superior Court.

30-9-11.10 Duration

An approved modification is part of an approved plan and shall have the same duration as the plan approval.

30-9-12 APPEALS

30-9-12.1 General

Unless otherwise provided, appeals of decisions, actions, orders, or interpretations of this Ordinance shall be:

- (A) in writing;
- (B) filed within fifteen (15) days of the final decision;
- (C) filed with the Secretary of the Board or Commission to which the appeal is taken;
and
- (D) in the nature of de novo review.

30-9-12.2 Technical Review Committee

- (A) Appeals from a decision of the Planning Department with regard to minor subdivisions are to the Technical Review Committee provided the appeal is made by the applicant within thirty (30) days of the decision.
- (B) Appeals from decisions of the Enforcement Officer regarding alternate methods of compliance for landscaping plans (Section 30-5-4.6) and Watershed Control Plans (Section 30-7-2.2) are to the Technical Review Committee as a request for modification (Refer to Section 30-9-11).

30-9-12.3 Planning Board

- (A) Appeals from a decision of the Technical Review Committee concerning modification of specific standards within sections of Article IV, Article VI, and Article VII of this Ordinance are to the Planning Board. The specific sections are listed in Section 30-9-11.4 (Sections Affected) and Section 30-9-11.5 (Modification of Water Supply Watershed Standards).
- (B) Appeals from any decision or action of the Technical Review Committee regarding plans, subdivisions, or group developments are also to the Planning Board, unless otherwise provided.
- (C) Appeals from a decision of the Enforcement Officer with regard to a soil erosion and sedimentation control plan are to the Planning Board. (Refer to Section 30-9-12.7 (Soil Erosion and Sedimentation Control))

30-9-12.4 Board of Adjustment

- (A) Unless otherwise provided, the decision of an Enforcement Officer with regard to an interpretation of a zoning provision of this Ordinance, of a floodway or floodway fringe boundary, or of a zoning boundary may be appealed to the Board of Adjustment.
- (B) Appeal from a decision of the Historic Preservation Commission with regard to a Certificate of Appropriateness shall be to the Board of Adjustment in the nature of certiorari.

30-9-12.5 City Council

Appeals from a decision of the Planning Board or Zoning Commission with regard to zoning map amendments, Conditional Zoning Districts, Special Use Permits, watershed modifications, subdivisions, or site plans shall be to the City Council.

30-9-12.6 Judicial

Except as otherwise provided, an appeal from a decision of the City Council or the Board of Adjustment is to a court of competent jurisdiction.

30-9-12.7 Soil Erosion and Sedimentation Control

(A) Procedure: Except as provided in Subsection 30-9-12.7(B) of this Ordinance, the appeal of a disapproval or conditional approval of a soil erosion and sedimentation control plan shall be governed by the following provisions:

1) Written Appeal: The disapproval or conditional approval of any proposed soil erosion and sedimentation control plan by the Enforcement Officer shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of disapproval or conditional approval.

2) Timing: A hearing held pursuant to this Section shall be conducted by the Planning Board within thirty (30) days or at the next scheduled meeting after the date of the appeal or request for a hearing.

3) Recommendation: The Planning Board shall conduct a hearing and shall make a recommendation to the City Council within thirty (30) days after the date of the hearing on a soil erosion and sedimentation control plan.

4) Public Hearing: The City Council will render its final decision on a soil erosion and sedimentation control plan upon which a hearing is requested within fifteen (15) days after receipt of the Planning Board recommendation.

5) Appeal of City Council Denial: If the City Council upholds the disapproval or conditional approval of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall then be entitled to appeal the City Council's decision to the North Carolina Sedimentation Control Commission as provided in NCGS 113A-61(c) and Title 15 NCAC 4B.0018(b).

(B) Direct Appeal to Sedimentation Control Commission: In the event that a soil erosion and sedimentation control plan is disapproved pursuant to Section 30-7-4.14(H) (Grounds for Plan Disapproval) of this Ordinance, the City shall notify the Director of the Division of Land Resources of such disapproval within ten (10) days. The City shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the City's disapproval of the plan pursuant to Section 30-7-4.14(H) of this Ordinance directly to the North Carolina Sedimentation

Control Commission.

30-9-13 ADVISORY COMMISSION ON TREES (ACT)

30-9-13.1 Authority.

An Advisory Commission on Trees (ACT) is hereby established pursuant to NCGS 160A-174.

30-9-13.2 Membership.

(A) Number of Members: The ACT shall be composed of nine (9) members who shall be appointed by the City Council for terms to expire as of August 15.

(B) Qualification for Membership: Members shall be residents of the City.

(C) Composition: Members shall be composed of one (1) certified arborist, one (1) landscape architect or landscape designer, one (1) horticulturist or botanist, two (2) members of the builder/contractor/developer community, one (1) civil engineer, two (2) active members of a recognized environmental group, and one (1) individual who has demonstrated an interest in conservation and natural resources.

30-9-13.3 Quorum.

Five (5) members of the Advisory Commission on Trees shall constitute a quorum. The concurrence of at least a majority of those members present will be required before any recommendation or action is made on any matter considered.

30-9-13.4 Powers and Duties.

The Advisory Commission on Trees shall have the following powers and duties:

(A) To provide professional expertise for developing program goals and policy;

(B) To evaluate and monitor current regulations for effectiveness, and recommend appropriate changes regarding the Tree Preservation Ordinance to the City Council;

(C) To conduct educational programs with respect to tree preservation within its jurisdiction;

(D) To review and provide recommendations for the long term tree management and maintenance plan for the City;

(E) To gather information from the public, development and business communities with respect to the Tree Preservation Ordinance;

(F) To review appeals, orders, requirements, decisions, determinations, or interpretations made by an administrative official charged with enforcing the Tree Preservation Ordinance;

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(G) To make recommendations to the BOA with reference to variances with relation to the provisions of the Tree Preservation Ordinance;

(H) Approve minor variations to the Tree Preservation Ordinance that provide equal or better compliance.